

Commodity Credit Corporation, USDA

§ 1436.9

(4) Structures that are not suitable for storing the facility loan commodities for which a need is determined; and

(5) Storage structures to be used for commercial purposes. Commercial purpose is defined as the storage and handling of grain, whether paid or unpaid, for persons other than the loan applicant. State FSA committees may allow, subject to the approval of the Deputy Administrator, Farm Programs, FSA, exceptions to this requirement if an applicant is otherwise eligible and the intent and purpose of the Farm Storage Facility Loan program is being met. Any facility that is in working proximity to any commercial storage operation, shall be considered to be part of a commercial storage operation.

(d) Loans may be approved for financing additions to more modifications of an existing storage facility to increase storage capacity if the county FSA committee determines that the modification is necessary to increase the storage capacity of the unit and is not for maintenance, repair, or replacement of items such as motors, fans, or wiring.

§ 1436.7 Term of loan.

The maximum term of the loan shall be 7 years from the date of execution of a promissory note and security agreement. No extensions of the loan term will be granted.

§ 1436.8 Security for loan.

(a) All loans shall be secured by a promissory note and security agreement covering the farm storage facility. The promissory note and security agreement shall grant CCC a security interest in the collateral and shall be perfected in the manner specified in accordance with applicable state law. CCC's security interest in the collateral shall constitute the sole security interest in such collateral except for prior liens on the underlying realty that by operation of law attaches to the collateral if it is or becomes a fixture. If any such prior lien on the realty will attach to the collateral, a waiver, severance, or subordination of such lien must be obtained in writing from each person having an interest in the

real estate on which the collateral is to be located. No additional liens or encumbrances may be placed on the storage facility after the loan is approved unless CCC approves otherwise in writing.

(b) A lien on the real estate on which the farm storage facility is located will be required on all loans in the form of a real estate mortgage, deed of trust, or other security instrument approved by the CCC. For loan amounts exceeding \$50,000, CCC's interest in the real estate shall be superior to all other lien holders. If the real estate is covered by a prior lien, a lien may be obtained by means of a subordination agreement prescribed by CCC. CCC will not require such an agreement from any agency of the Department of Agriculture.

(c) Real estate liens may cover an acreage of land separate from the collateral if a lien on the underlying real estate is not feasible and if:

(1) The borrower owns the separate acreage; and

(2) The acreage is large and valuable enough, in the approving authority's opinion, to insure repayment of the loan.

(d) Notwithstanding paragraphs (a), (b) and (c) of this section, a borrower, in lieu of such liens as are otherwise required by those paragraphs, may provide a letter of credit, bond, or other form of security, as approved by CCC.

(e) If an existing structure is remodeled and an addition becomes an attached, integral part of the existing storage structure, CCC's security interest shall include the existing storage structure.

(f) The cost of filing and recording all real estate liens and later subordinations will be paid by the borrower. CCC shall pay such costs relating to filing and recording financing statements.

§ 1436.9 Loan amount and loan application approvals.

(a) The cost on which the loan shall be based is the net cost of the eligible facility, accessories, and services to the applicant after discounts and rebates, not to exceed a maximum per-bushel cost established by the State FSA committee.

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(b) The net cost for storage and handling equipment may include purchase price, sales tax, shipping, and delivery charges. The net cost shall not include secondhand material or any other item that is determined by the approving authority to be ineligible for loan.

(c) The principal amount of any farm storage facility loan shall be 75 percent of the net cost of the applicant's needed storage or handling equipment not to exceed \$100,000. Borrowers are limited to obtaining one loan per fiscal year under this part.

(d) The aggregate outstanding balance of all facility loans for any one borrower may not exceed \$100,000.

(e) When a storage structure has a larger capacity than the applicant's needed capacity, as determined by CCC, the net cost eligible for a loan shall be prorated. Only costs associated with the applicant's needed storage capacity will be loan-eligible.

(f) The county FSA committee may approve applications, if loan funds are available, up to the maximum approval amount unless the State FSA committee establishes a lower limit for country FSA committee approval authority.

(g) Loan approvals will expire four months after the date of approval unless extended in writing for an additional four months by the State FSA committee.

§ 1436.10 Down payment.

(a) A minimum down payment representing the difference between the net cost of the storage facility and the amount of the loan determined in accordance with §1436.9 shall be made by the loan applicant to the supplier or contractor before the loan is disbursed.

(b) The down payment shall be in cash unless some other form of payment is approved by CCC.

(c) The down payment may not include any trade-in, discount, rebate, credit, deferred payment, post-dated check, or promissory note to the supplier or contractor.

§ 1436.11 Disbursement.

(a) Disbursement of the loan by CCC will be made when the farm storage facility has been delivered, erected, constructed, assembled, or installed and a

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CCC representative has inspected and approved such facility.

(b) Disbursement will be made only if the borrower furnishes satisfactory evidence of the total cost of the facility and payment of all debts on the facility in excess of the amount of the loan.

(c) Disbursement may be made jointly to the borrower and the contractor or supplier, except disbursement may be made to the borrower if CCC determines the borrower has paid the contractor or supplier all amounts that are due and owing with respect to the facility.

§ 1436.12 Interest.

(a) Loans shall bear interest at the rate equivalent to the rate of interest charged on Treasury securities of comparable maturity on the date the loan is approved.

(b) The interest rate for each loan will remain in effect for the term of the loan.

(c) The loan applicant shall pay a non-refundable application fee of at least \$45 to CCC

§ 1436.13 Payment of loan.

(a) Equal installments of principal plus interest will be amortized over the loan term. Installments are due and payable by no later than the last day of each 12 month period of the loan, until the principal plus interest has been paid in full.

(b) The payment of each installment may be by cash, money order, wire transfer, or by personal, certified, or cashier's check. Repayment shall be applied first to accrued interest and then to principal.

(c) A claim will be established in accordance with 7 CFR part 1403 for the principal and accrued interest amount due and late payment interest for any installment that is not paid within 30 days after the due and payable date.

(d) Loan amounts outstanding, whether or not overdue, may be collected from payments that the borrower may otherwise be due to receive as marketing loan gains or other payments under 7 CFR part 1421 or 7 CFR part 1427. In the event that a claim is established against a borrower for any amount due under this part, the provisions of 7 CFR part 1403 may be used to